



Ninety-Eighth Legislature - First Session - 2003
Committee Statement
LB 487

Hearing Date: February 11, 2003

Committee On: Banking, Commerce and Insurance

Introducer(s): (Redfield, Combs, Hudkins, McDonald, Price, Schimek, Stuhr, Thompson, Brown)

Title: Adopt the Model Act Regarding Use of Credit Information in Personal Insurance

Roll Call Vote – Final Committee Action:

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

| | | |
|---|---------------------|---|
| 6 | Yes | Senators Quandahl, Tyson, Jensen, Loudon, Mines, Redfield |
| | No | |
| 1 | Present, not voting | Senator Foley |
| 1 | Absent | Senator Johnson |

Proponents:

Senator Pam Redfield
James Cavanaugh
Joe Elliott
Eddy Lo
Susan Kirkpatrick
Janis McKenzie
Bob Skochdopole
Ted Fraizer
Tim Wagner

Representing:

Introducer
Independent Insurance Agents of NE
Professional Insurance Agents Association
NE Insurance Information Service
State Farm Insurance Companies
NE Insurance Federation
National Association of Independent Insurers
American Insurance Association
NE Department of Insurance

Opponents:

Representing:

Neutral:

Rick Wade

Representing:

Alliance of American Insurance

Summary of purpose and/or changes:

LB 487 (Redfield, Combs, Hudkins, McDonald, Price, Schimek, Stuhr, Thompson) would enact the Model Act Regarding Use of Credit Information in Personal Insurance to regulate the use of credit information for personal insurance.

The bill would provide, section by section, as follows:

Section 1 would provide for a named act: the Model Act Regarding Use of Credit Information in Personal Insurance.

Section 2 would provide that the purpose of the act is to regulate the use of credit information for personal insurance.

Section 3 would provide that the act applies only to personal insurance (private passenger automobile, homeowners, motorcycle, mobile homeowners, noncommercial dwelling fire, and boat, personal watercraft, snowmobile, and recreational vehicle insurance policies.

Section 4 would provide definitions for the following terms: “adverse action,” “affiliate,” “applicant,” “consumer,” “consumer reporting agency,” “credit information,” “credit report,” and “insurance score.”

Section 5 would provide that an insurer that uses credit information to underwrite or rate risks shall not:

(1) use an insurance score that is calculated using income, gender, address, zip code, ethnic group, religion, marital status, or nationality of the consumer as a factor;

(2) deny, cancel, or nonrenew a policy solely on the basis of credit information, without consideration of any other applicable underwriting factor;

(3) base an insured’s renewal rates solely upon credit insurance, without consideration of any other applicable factor;

(4) take an adverse action against a consumer solely because he or she does not have a credit card account, without consideration of any other applicable factor;

(5) consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating;

(6) take an adverse action against a consumer based on credit information, unless an insurer obtains and uses a credit report issued or an insurance score calculated within ninety days;

(7) use credit information unless not later than every thirty-six months, the insurer recalculates the insurance score or obtains an updated credit report; or

(8) use certain enumerated inquiries as a negative factor in any insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a policy.

Section 6 would provide that an insurer shall reunderwrite and rerate a consumer within thirty days after receiving notice that the credit information of an insured was incorrect or incomplete.

Section 7 would provide that if an insurer uses credit information in underwriting or rating a consumer, the insurer or its agents shall disclose, on the application or when the application is taken, that it may obtain credit information in connection with the application.

Section 8 would provide that if an insurer takes an adverse action based upon credit information, the insurer shall provide notification of the adverse action and an explanation of the reason for the adverse action.

Section 9 would provide that insurers that use insurance scores to underwrite and rate risks shall file their scoring models or other scoring processes with the Department of Insurance, and that a third party may file scoring models on behalf of insurers.

Section 10 would provide that an insurer shall indemnify, defend, and hold agents harmless from and against all liability, fees, and costs arising out of or relating to the actions, errors, or omissions of an insurance producer who obtains or uses credit information or insurance scores for an insurer.

Section 11 would provide that no consumer reporting agency shall provide or sell data or lists that include any information that was submitted in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score.

Section 12 would provide that the act applies to policies written to be effective or renewed on or after nine months after the effective date of this act.

Section 13 would provide severability.

Explanation of amendments, if any:

The committee amendments would amend section 9 (which regards insurer filings of scoring models) to provide that any filing with the Department of Insurance relating to credit information is considered a trade secret.

Senator Mark Quandahl, Chairperson